



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: CCL, Incorporated
File: B-228094.2; B-228094.3
Date: February 9, 1988

DIGEST

Bid that does not include one required peripheral subitem of computer system to be supplied under terms of IFB, and is ambiguous as to others, is nonresponsive as bid is not an unequivocal offer to provide system in exact conformance with material terms of IFB.

DECISION

CCL, Incorporated protests the award of a contract to BDS, Incorporated, the second low bidder, under Department of Justice invitation for bids (IFB) No. JAUST-87-B-0038, for automatic data processing equipment systems. Justice initially rejected CCL's low bid on the basis that it was mathematically and materially unbalanced. In the agency's administrative report responding to CCL's protest of this determination, Justice further argued that CCL's bid also was nonresponsive for failure to contain a firm, fixed price. We find that CCL's bid was nonresponsive on this latter basis, and thus deny the protest.

The IFB solicited bids to furnish IBM System 36 central processing units, or equal, as well as peripherals and software for 81 offices located throughout the United States. Due to the size and complexity of this procurement, the IFB listed a total of 870 contract line items, including hardware, software, documentation and installation items for each of the sites. Bidders were to provide a price for each of these items as well as a total price for the entire contract. Bidders also were to furnish a complete description of each item bid, including at a minimum the make, model number, and a brief narrative description. A single award was contemplated, to be made to the overall low responsive, responsible bidder.

Eighty-one of the contract line items were for various quantities--280 units in total--of IBM PC/ATs or equal. The format for these items, as appearing in the IFB's bid schedule, was as follows:

Description	Quantity	Unit Price	Total Price
IBM 5170399 PC/AT Personal Computer System Unit, monitor, printer, printer cable, DOS, software and word processing software or equal.	#	_____	_____

Bidding on: _____
 Manufacturer's name: _____
 Brand: _____
 Number: _____

The performance work statement, as amended, specified that each item was to consist of a system unit (including among other features, two disc drives, a keyboard, and 5250 enhanced emulation hardware and software), monitor, printer (letter quality), DOS software (3.3 or higher), and word processing software. Additionally, the performance work statement included minimum characteristics for the equipment.

Instead of offering the brand name product for each of the 81 line items, CCL offered the Telex 1280 Workstation P.C. at a price of \$2,500 per unit. CCL completed the bid schedule for each item as follows:

Description	Quantity	Unit Price	Total Price
IBM 5170399 PC/AT Personal Computer System Unit . . .	#	\$2,500	* * *

Bidding on: Telex
 Manufacturer's name: Telex
 Brand: 1280
 Number: 1280

CCL furnished descriptive literature for the Telex 1280; the 5250 emulation option and enhanced keyboard, both manufactured by Telex; a Quimax color monitor; a Seagate hard disc drive; and an IBM proprinter. CCL also furnished an equipment price list, which included a price of \$2,500 per unit for the Telex 1280 workstation, described as "PC/AT (DOS 3.3; 5250 feature)," and a separate price of \$653 per unit for the IBM proprinter.

Justice questions whether CCL's bid in this form is responsive, taking the position that it is unclear whether CCL's \$2,500 unit price on its bid schedule includes all of the required peripheral items.

CCL maintains that its bid represented an unequivocal offer to provide the requested hardware and software items in exact conformance with the material terms of the solicitation. CCL argues that it was obligated to furnish the Telex 1280 with all required peripheral items at a price of \$2,500 per unit, although it concedes that this price did not include a price for the printer. In this latter regard, CCL claims it omitted the printer because the IFB, as amended, did not include specifications for it.

A bid, to be responsive, must be an unequivocal offer to perform without exception the exact thing called for in the solicitation so that upon acceptance the contractor will be bound to perform in accordance with all of the invitation's material terms and conditions. See Spectrum Communications, B-220805, Jan. 15, 1986, 86-1 CPD ¶ 49. Where any substantial doubt exists as to whether a bidder upon award could be required to supply each item specified in an IFB, the integrity of the competitive bid system requires rejection of the bid as being nonresponsive. See TCI Ltd., 65 Comp. Gen. 23 (1985), 85-2 CPD ¶ 433. To hold otherwise would afford a bidder the option after bid opening of arguing that it did not intend to offer to furnish all items at its bid price. See 51 Comp. Gen. 543 (1972). We find this to be the situation here.

It is clear--and CCL concedes--that the firm's bid price did not cover a system with a printer. In this regard, as already explained, the price list CCL submitted showed a separate price (\$653) for the printer, in addition to the \$2,500 Telex 1280 price. CCL argues that, despite this flaw, its bid should be accepted for award since, even with \$653 per printer added to its total bid price, it is still lower than BDS's total price. This argument misses the point, however. Since a printer was not included in CCL's bid as originally submitted, the bid does not offer to comply with all material IFB requirements, and thus is nonresponsive; if awarded a contract, CCL would not be bound to furnish any printer with its system. See Delco Industrial Textile Corp., B-223908, Oct. 29, 1986, 86-2 CPD ¶ 490.

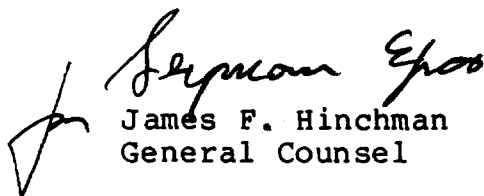
The IFB, as amended, did omit specifications for the printer, but this was merely an inadvertence by the agency--the IFB as issued, to which CCL had access, did contain the printer specifications. Moreover, if CCL somehow was unable to determine the printer specifications, its proper response would have been to request clarification from the agency prior to bid opening, not to omit the item from its bid. See Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1987).

Further, CCL's bid appears to us ambiguous as to what other peripheral items and features were included in its price. The Telex 1280 Workstation, as indicated by the brochure furnished by CCL, is a base unit and does not, by itself, satisfy the requirements of the IFB; the peripheral items (e.g. monitors, DOS 3.3) are not automatically part of the Telex 1280 base system unit. As indicated above, the price list describes the Telex 1280 as "PC/AT (DOS 3.3; 5250 feature)," and prices this at \$2,500. Based on this description, it does not appear that CCL's \$2,500 bid schedule price includes all the required features and peripherals; it is at least unclear whether CCL's price includes all those add-ons or only the DOS 3.3 and 5250 features. Such ambiguity over what is being offered in a bid renders the bid nonresponsive. See Photographic Analysis Co.Inc, B-223787, Dec. 1, 1986, 86-2 CPD ¶ 619.

CCL reasons that identification of its offered system peripheral items and features was not required as the IFB did not provide sufficient space to do so or request individual prices for each. The IFB specified, however, that bidders were to furnish the make and model number for each item to be supplied, and while the IFB did not include separate spaces to price each peripheral item, listing all such items by model number together in the single space provided was the only way to meet this requirement; this is the approach BDS adopted. See Delco Industrial Textile Corp., B-2239008, supra.

We conclude that CCL's bid was nonresponsive for failing unequivocally to offer all items called for by the IFB.

We deny the protest.


James F. Hinchman
General Counsel